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Denise M. Sheehan
Acting Commissioner

CERTIFIED/RETURN RECEIPT REQUESTED
Certified No. 1042063

July 27, 2005

Mr. Mark Sielski
Project Manager
Foster Wheeler Environmental Corporation
1000 The American Road
Morris Plains, NJ 07950

Dear Mr. Sielski:

RE: Draft Supplemental Remedial Investigation Report for the Former Magna Metals Site
(NYSDEC Site No. 360003) Town of Cortlandt, Westchester County, New York,
dated August 2004: Tetrtech Response to Comments dated June 10, 2005

The New York State Department's of Environmental Conservation and Health (NYSDEC and NYSDOH) have received and reviewed the above-mentioned document and has additional comments and concerns. There are several different media of concern at this site including soils, sediments, groundwater, and soil gas. Each one of these media will be addressed separately.

Soils

The soils below and surrounding the leach pits exceed the NYS Soil Cleanup Criteria and are a continuing source of contamination to groundwater, surface water, and sediments downgradient the site. However, the full extent of soil contamination has not yet been determined nor has the configuration and location of the entire network of leach pits been fully determined.

If ISC Properties, Inc. chooses not to complete the investigation at this time, the feasibility study can be commenced but the following conditions must be met. The alternatives must include remediating all soils on and off site to TAGM 4046 levels. This will include soils around the leach pits, surface soils, and any other contaminated soils associated with the site.

The extent of the contamination will be determined during pre-design studies or as part of the remediation, as determined by the Department. This would include at a minimum

reexamining the leach fields to determine the full extent of the network and sampling any remaining vessels, soils surrounding the pits, and surface soils. Some of the surface soil samples show elevated levels of several metals, notably chromium, copper, and arsenic. Additional sampling must be done to determine the lateral and vertical extent of that contamination.

Groundwater

Contrary to Tetrtech's letter, it is not clear what the source of trichloroethylene groundwater contamination is that is seen in MW-4 and MW-4D. The draft report discusses groundwater contamination in three short paragraphs; there is no discussion about possible sources of contamination. The response letter does not indicate what the source is, nor what the evidence is that the source has been found. The lateral and vertical extent of the groundwater contamination has not been determined. Additional monitoring wells need to be installed and sampled in order to determine the full extent of the contamination.

Also, monitoring wells MW-03 and MW-06 were not sampled because there they were effectively dry. These wells locations were selected to further delineate the groundwater contamination and are unusable. This by itself clearly demonstrates that data gaps exist.

If ISC refuses to complete the investigation of the groundwater, ISC will be in violation of their consent order which requires a complete remedial investigation of the site to determine the nature and extent of contamination.

Soil Vapor

As you may be aware, the NYSDEC in consultation with the NYSDOH recently developed a strategy for evaluating the potential for vapor intrusion at past, current and future sites in New York state (<http://www.dec.state.ny.us/website/der/vaporstrat.pdf>). The strategy describes the process by which the agencies will prioritize remedial sites for further soil vapor intrusion evaluations.

Proper assessment of potential impacts to indoor air from soil and/or groundwater contaminated with volatile chemicals has become a significant issue in the evaluation of environmental and health impacts at sites across the State based on an evolving understanding of soil vapor migration and intrusion. As a result, all completed, current, and future contaminated sites in New York State will be evaluated to determine whether these sites have the potential for exposures related to soil vapor intrusion. These include all Resource Conservation and Recovery Act (RCRA) Corrective Action sites, inactive hazardous waste disposal sites (State Superfund), Voluntary Cleanup Program sites, Brownfield Cleanup Program sites, Environmental Restoration Program sites, and petroleum spill sites.

For ongoing sites where final remedial decisions have not been made, the vapor intrusion pathway will be evaluated as a component of the investigation like any other media (e.g., groundwater and soil). Although the NYSDEC has not previously evaluated the soil gas pathway at this site as part of the remedial program, improvements in analytical techniques and knowledge gained from site investigations in New York and other states have led to an

increased awareness of soil vapor as a media of concern and of the potential for exposures from the vapor intrusion pathway. Based on this additional information, New York is currently re-evaluating previous assumptions and decisions regarding the potential for vapor intrusion exposures at sites. At each such site, the process of conducting a vapor intrusion evaluation begins with a review of the historical data. At sites where it is determined that further investigation is required, it may be necessary to collect any or all of the following samples: groundwater, soil vapor, sub-slab vapor, and indoor and outdoor air.

Based on the NYSDEC and NYSDOH review of the historical data for this site, the Departments have decided that additional work is required to investigate the soil gas at the Magna Metals site; which includes collecting soil gas samples in the vicinity of the contaminated groundwater and nearby buildings. The NYSDEC and NYSDOH will work with you to determine how to proceed with the evaluation. Should ISC refuse to conduct a vapor intrusion evaluation at the site, ISC will be in violation of the consent order.

The State has developed "Guidance for Evaluating Soil Vapor Intrusion in the State of New York" which provides detailed information about soil vapor intrusion. The document is available for viewing or download at the New York State Department of Health website (http://www.health.state.ny.us/nysdoh/gas/svi_guidance/index.htm).

Surface Water and Sediments

ISC has refused to conduct additional field sampling/toxicity testing as requested in the Department's letter of April 20, 2005. Because the extent and toxicity of contaminated media is inadequately characterized, the ensuing Feasibility Study (FS) must include the following alternatives:

- An alternative that would result in pre-release conditions for all areas impacted by Magna Metals
- An alternative to remediate to Lowest Effect Level (LEL) concentrations for metals.

As stated in NYSDEC *Technical Guidance for Screening Contaminated Sediments*, "if the concentration is greater than the lowest effect level but less than the severe effect level concentration, the sediment is considered to be contaminated, with moderate impacts to benthic life." Hence, any alternatives based on contaminant levels exceeding LEL concentrations would require substantial evidence upon which to conclude that the environment is protected at those concentrations. Currently, there are insufficient data to support remedial alternatives not based upon LELs.

Quarterly progress reports have not been submitted to the Department as required by Section VI of the consent order. ISC is hereby noticed that it is in violation of the consent order.

As indicated by the comments above, additional field work is necessary to complete the investigation. A work plan must be submitted to the Department in accordance with the consent order to address the Department's additional needs. If ISC Properties refuses to complete the investigation, it will be in violation of the consent order. As the Department does not approve of TetraTechs responses dated June 10, 2005, if ISC wishes to invoke dispute resolution, it must do so within ten days of receipt of this letter.

If you wish to discuss further any of these matters or have any questions, please call me at 518-402-9767, or my attorney, Ms. Rosalie K. Rusinko at 914-332-1835 x315.

Sincerely,

Sally W.W. Dewes

Sally W.W. Dewes, P.E.
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